

MT LEGISLATIVE HISTORY

Chapter 222 19 81

Bill (H) 625 S _____

Original bill & hist. ☒ C

H. Committee on Business & Industry

S. Committee on Business & Industry

Hearing Date(s) Feb 16 ☒ C

Hearing Date(s) Mar 16 ☒ C

Feb 17 ☒ C

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Date Out _____ C

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Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL NO. 625

INTRODUCED BY FABREGA, GOODOVER, MOORE, ROBBINS

IN THE HOUSE

February 3, 1981	Introduced and referred to Committee on Business and Industry.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks. Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 89; Noes, 9. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Business and Industry.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 18, 1981	Motion pass consideration.
March 19, 1981	Second reading, concurred in.
March 23, 1981	Third reading, concurred in. Ayes, 43; Noes, 6.

IN THE HOUSE

March 24, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 625
2 INTRODUCED BY LaRue, Gordon, Thane (4/6/72)

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CREDITORS TO
5 CHARGE A LATE PAYMENT CHARGE OF 1 1/2 PERCENT ON ACCOUNTS
6 RECEIVABLE FOR MERCHANDISE SOLD AT RETAIL, STARTING 30 DAYS
7 AFTER THE OBLIGATION IS INCURRED; AND TO REQUIRE CREDITORS
8 TO SUPPLY DEBTORS WITH A PERIODIC STATEMENT OF SUCH
9 ACCOUNTS."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Late payment charges permitted on accounts
13 receivable for merchandise sold at retail. (1)
14 Notwithstanding 31-1-106 or 31-1-107, a person who sells
15 goods, as defined in 31-1-202, at retail to a retail buyer
16 who promises to pay for such goods upon presentation of the
17 bill therefor, may charge and collect a late payment charge
18 not greater than 1 1/2% per month on all money due on all
19 accounts from 30 days after the date on which the obligation
20 of the buyer to pay is incurred.

21 (2) The late payment charge provided in this section
22 may be charged only if at the time the obligation was
23 incurred the seller did not intend to extend any credit
24 beyond 30 days and any late payment of the obligation was
25 unintended.

1 (3) The provisions of this section do not apply to
2 money due for intangible services, for services regulated by
3 the public service commission, for real property, for health
4 care services, or for retail installment sales contracts or
5 retail charge account agreements regulated under Title 31,
6 chapter 1, part 2.

7 Section 2. Periodic statement to be furnished to
8 debtor. (1) A seller may charge the late payment charge
9 provided for in [section 1] only if he promptly supplies the
10 buyer with a statement as of the end of each monthly period,
11 or other regular period agreed upon by the seller and the
12 buyer, in which there is any unpaid balance. Such statement
13 shall recite the following:

14 (a) the percentage amount of the late payment charge
15 that will be charged beginning 30 days after the obligation
16 is incurred;

17 (b) the unpaid balance at the beginning or end of the
18 period;

19 (c) an identification of any amounts debited to the
20 buyer's account during the period;

21 (d) the payments made by the buyer to the seller
22 during the period;

23 (e) the amount of the late payment charge and also the
24 percentage annual simple interest equivalent of such amount;

25 and INTRODUCED BILL

1 (f) a legend to the effect that the buyer may at any
2 time pay the total unpaid balance.

3 (2) The items need not be stated in the sequence or
4 order set forth in subsection (1). Additional items may be
5 included to explain the computations made in determining the
6 amount to be paid by the buyer.

7 Section 3. Limitation on applicability. The late
8 payment charge allowed in section 1 may be allowed to a
9 seller only on obligations incurred after July 1, 1981.

10 Section 4. Codification instruction. Sections 1 and 2
11 are intended to be codified as an integral part of Title 31,
12 chapter 1, and the provisions of Title 31, chapter 1, apply
13 to sections 1 and 2.

-End-

HOUSE BUSINESS AND INDUSTRY COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 578 F.N.	To streamline state small business licensing procedures; authorizing adoption of rules for this purpose; providing immediate effective date.	1/30	Vincent Kitselman	2/13	DO PASS AS AMENDED	2/21
HB 592	Requiring financial institutions to pay interest on amounts held in reserve for insurance and taxes.	1/31	Teague Huennekens	2/18	TABLED 2/18	
HB 597	To require barber schools to schools to employ as instructors only those persons licenses as instructors by the board of barbers; amend 37-30-404.	1/31	Ernst	2/16	TABLED 2/19	
HB 612	To include transactions between crop producers, crop sellers, & crop buyers within the definition of "between merchants" in the Uniform Commercial Code; amend 30-2-104 & 30-2-201.	2/2	Bardanouve	2/16	TABLED 2/19 DO PASS AS AMENDED	2/23
HB 615 F.N.	Amend Housing Act of 1975 to authorize issuance of bonds for members of MT National Guard, U.S. Reserve military forces, veterans; guaranteeing bonds with full faith & credit of state; amend...	2/3	Kitselman Neuman (Others)	2/18	TABLED 2/21	
HB 625	Allow creditors to charge late payment charge of 1-1/2% on accts. receivable for mchse sold at retail	2/3	Fabrega Goodover	2/16	DO PASS AS AMENDED	2/19

February 16, 1981

SUMMARIES FOR

HOUSE BILL 597 -

Introduced by Rep. Ernst, requires that in addition to being managed by a person with 10 years experience as a barber, a barber school employ as instructors only persons licensed as instructors under the rules of the Board of Barbers.

HOUSE BILL 612 -

Introduced by Rep. Bardanouve, brings transactions between crop producers, crop sellers, and crop buyers under the definition of "between merchants" as understood in the Uniform Commercial Code with the assumption that all parties have the knowledge or skill of merchants. It provides a contract is enforceable if payment has been made for part of the goods and if the agreement is evidenced by an instrument or document received by the seller that indicates the buyer believes a contract exists.

HOUSE BILL 625 -

Introduced by Rep. Fabrega and others, permits a retailer of goods to impose an additional charge of 1-1/2% of the overdue balance on all credit accounts 30 days past due, provided a statement is rendered at the end of each month showing the transactions during the month, the balance due, the amount of late payment charge and its simple interest equivalent. This bill might need July 1 effective date.

HOUSE BILL 671 -

Introduced by Rep. Hurwitz by request of the Department of Professional and Occupational Licensing. Raises the osteopath's certificate renewal fee from \$15 to \$25 and for a person not in active practice from \$7.50 to \$17.50; removes the requirement that a podiatrist record his license with the county clerk and raises the podiatrist's license renewal fee from \$35 to \$50; requires an applicant for examination for licensing as a nursing home administrator to pay an additional fee above the \$25 specified and provides for a late fee to be imposed for failure to pay license or registration fee or to complete education requirements; raises from \$50 to \$150 the fee for a person whose chiropractic license has been revoked and later restored; raises fee from \$80 to \$100 for renewal of licenses as a hearing aids fitter; raises fee from range of \$20 to \$50 to range of \$40 to \$100 for renewal of psychologist's license; authorizes the Board of Cosmetologists to require a separate, non-refundable application fee of \$10 in addition to license fees; raises the water well contractor's license renewal fee from \$25 to a figure to be set by the Board of Water Well Contractors but not more than \$50. This bill coordinates with SB 412. If SB 412 passes, the only part of HB 671 that will remain valid is subsection (2) of Section 2 in regard to eliminating the requirement for podiatrists to file license with the county clerk.

HOUSE BILL 713 -

Introduced by Rep. Fabrega and Sen. Goodover, adopts the Uniform Arbitration Act and amends or repeals various sections of Montana law to conform.

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consideration of this bill to allow this to extend to the employer-employee arbitration. This legislature will have the chance to consider the labor part in another bill HB 778.

OPPONENTS: None

QUESTIONS -

Rep. Schultz asked Mr. McKay who makes up the organization of the National Conference of Commissioners. It is an organization of the legal profession and each state creates its own laws and the state commissioners composes the national commissioners. Their function is to look at state law that proposes where uniformity is part of the state law. Each state contributes something financially. James D. Harrison and Diana Dowling are Montana commissioners.

Rep. Fabrega closed saying Montana law is the impediment to the resolution of disputes. Arbitration law in Montana has changed little in the last 100 years. If the word of an arbitrator is debatable, you can take the award to the court, but full use of this method cannot be used until the legislature acts. Private settlement of disputes should be settled out of court.

HOUSE BILL 625 -

REP. JAY FABREGA, District #44, Cascade County, chief sponsor, explained HB 625 allows a merchant who does not intend to sell on credit, but who sells with the intention that he is going to be paid for in cash, but to be accommodating will agree to charge it. But the understood agreement is that when the bill is presented, it will be paid within 10 days after the first of the month when all bills are due and payable. By allowing charge accounts, you have become an unwilling lender and because you did not intend to become a lender, you did not intend to enter into an agreement with interest charges, etc. The person who does not intend to allow revolving accounts should be protected. HB 625 would clarify this procedure.

HB 625 is to be considered a late payment charge method by a seller who wants to be paid in a good faith contract. You buy something with the intention of paying for it after the first of the month.

REP. KEN ROBBINS mentioned a small merchant has to pay his bills on the strength of that money coming in and when it doesn't he is put into a very embarrassing spot. He is very much in favor of this bill.

REP. GLENN JACOBSEN is a proponent.

TOM WINSOR, Montana Insulating Contractors Association, said they provide goods and services to their customers at no interest, and they are paying 19.5% for their money. Customers are getting no-interest loans from the utilities and his attorney tells him he can't charge more than 10%. He needs relief to recover their cost of interest payment. They still are losing money.

CURTIS HANSEN, Executive Vice President of the Montana Retail Association, Helena, supports HB 625. See his testimony EXHIBIT N.

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REP. KITSELMAN is a proponent.

OPPONENTS: None

QUESTIONS -

It was suggested that this be researched to see if you have to notify your accounts that you are going to establish a late payment charge. This would only apply to any charges made that were not intended to extend credit beyond 30 days and that any payment of the obligation was unintended. Subsection (3) provisions do not apply to money due for tangible services. This is for actual materials.

Rep. Wallin said section 2 requirements are met by what is written on an invoice sent each month to each account. Section (f) states a buyer may at any time pay the total unpaid balance and avoid late payment charges. The seller wants his money and not the interest.

Rep. Ellison mentioned this wouldn't add a late payment charge onto a doctor bill or retail sales contract. This is just making legal what most people have been doing for years.

Rep. Fabrega said this is just a matter of clarification of what has been going anyway. Rep. Meyer said if you don't have a signed invoice and you go to court the judge says you don't have a suit.

Rep. Fabrega resumed as chairman.

EXECUTIVE SESSION -

Rep. Ellerd moved to reconsider action previously taken on HOUSE BILL 262. Motion carried. This is relating to the Territorial Integrity Act.

Rep. Harper said you need "totally owned" in the proposed amendment. Montana Power Company is a consortium. Rep. Manning asked what reflection this would have on the bill. Mr. McKittrick said the power company will be owning less than total ownership in a particular plant, and without putting in anything else, they could own 1-10-30%. Rep. Manning asked if the power company is in support of this bill now, or are they going to fight the bill.

Mr. Gannon, Montana Power Company, said the situation in Colstrip is that Tongue River has some present interest in there. They would be excluded from some of the premises which are cooperatives. He feels the word "totally" would exclude facilities in Colstrip. They are still opposed to the bill. They would be precluded from that language. If they went through, the REA couldn't supply electricity to them. Mr. McKittrick said the Colstrip matter will be decided by law. He thought the electric suppliers could work out some kind of agreement.

Rep. Fabrega said the question is whether the word "totally" is to be stricken out of the proposed amendment. Motion to do so was adopted. Rep. Manning moved HOUSE BILL 262 DO PASS AS AMENDED. Reps. Meyer, Ellerd, Kitselman, O'Hara, Pavlovich voted no. Motion carried 14-5.

VISITORS' REGISTER

HOUSE Business & Industry COMMITTEE

BILL 6705

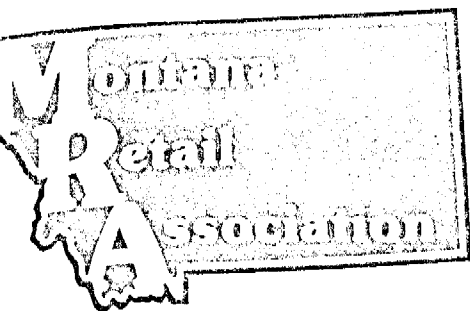
Date 2-16-51

SPONSOR Falanga

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



Executive Office
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Helena, MT 59624
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BEFORE THE HOUSE BUSINESS AND INDUSTRY COMMITTEE

IN SUPPORT OF - - - House Bill 625

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE. FOR THE RECORD, MY NAME IS CURTIS HANSEN, I AM THE EXECUTIVE VICE PRESIDENT OF THE MONTANA RETAIL ASSOCIATION.

I APPEAR HERE TODAY IN SUPPORT OF HOUSE BILL 625.

HOUSE BILL 625 IS QUITE UNIQUE IN THAT IT IS A NEW LAW AND YET IS REALLY A HOUSE CLEANING MEASURE IN A WAY.

PLACE YOURSELF, FOR A MINUTE, IN THE SITUATION THAT MANY RETAILERS FIND THEMSELVES. A GOOD CUSTOMER, WHO IS ALSO A GOOD FRIEND, WALKS INTO YOUR STORE. HE SELECTS MERCHANDISE, HE LAYS THE MERCHANDISE ON THE CHECK-OUT COUNTER, YOU WRITE IT UP ON A SALES SLIP, AND PLACE THE MERCHANDISE IN A SACK. HE PICKS UP THE SACK AND WALKS TOWARD THE FRONT DOOR SAYING, HAY, FRANK!, SEND ME A BILL ON THIS, O.K.? - - NOW WHAT DO YOU DO? YOU ARE SURE THAT HIS CREDIT IS GOOD. - - HE BUYS A LOT OF MERCHANDISE FROM YOU. - - HE IS IN A SERVICE CLUB WITH YOU. - - YOU HAVE KNOWN HIM FOR YEARS. - - YOU SEE HIM ALMOST EVERY DAY. - - BUT, - - YOU NEVER INTENDED THAT CREDIT WOULD BE EXTENDED TO ANYONE UNDER THESE CIRCUMSTANCES, - - YOU DON'T WANT TO CALL HIM BACK AND TELL HIM HE MUST COMPLETE A LOT OF FORMS, AND ENTER INTO A FORMAL "RETAIL CHARGE ACCOUNT AGREEMENT".

BEFORE YOU CAN EXTEND CREDIT TO HIM. WHAT DO YOU DO ?

I AM SURE THAT YOU WOULD DO AS MOST RETAILERS DO - - You WOULD SAY "O.K." - AND - JUST OPEN A SEMI-FORMAL CHARGE ACCOUNT AND SEND HIM A BILL AT THE END OF THAT MONTH.

THIS IS FINE - - THIS IS THE WAY BUSINESS SOMETIMES WORKS - - BUT - NOW WHAT DO YOU DO IF WHEN YOU SEND HIM THE BILL AT THE END OF THE MONTH - - YOU DON'T HEAR ANYTHING FROM HIM - - YOU DON'T RECEIVE ANY PAYMENT - - !

YOU ANALYZE YOUR ALTERNATIVES. - - YOU HAVE NO SIGNED AGREEMENT, - - YOU CAN'T GET TOO PUSHY, - - YOU DON'T WANT TO LOSE A FRIEND AND A GOOD CUSTOMER, - - WHAT DO YOU DO ?

YOU CAN WAIT ANOTHER MONTH - - SEND ANOTHER BILL AND HOPE THAT THIS TIME HE WILL PAY IT - - YOU CAN SEND HIM A NICE FRIENDLY, POLITE NOTE ASKING FOR PAYMENT - - (HAVE YOU EVER TRIED TO DEVISE A FRIENDLY, POLITE NOTE THAT ASKS FOR MONEY DUE TO YOU ?)

MOST RETAILERS HAVE COME TO THE CONCLUSION THAT ANOTHER BILLING - INDICATING A MONTHLY INTEREST CHARGE, IF NOT PAID WITHIN 30 DAYS, AS AN INCENTIVE TO PAY, WORKS BEST.

THIS IS WHAT THEY DO, THIS IS WHAT IS BEING DONE, I WOULD VENTURE A GUESS, THAT EVERY MEMBER OF THIS COMMITTEE HAS AT ONE TIME OR ANOTHER, RECEIVED A BILLING THAT INDICATED THERE WOULD BE AN INTEREST CHARGE OF $1 \frac{1}{2} \%$ PER MONTH IMPOSED, IF THE BILLING IS NOT PAID WITHIN 30 DAYS, AND THAT YOU HAD NEVER SUBSCRIBED YOUR SIGNATURE TO ANY "LEGALLY PROPER AND ENFORCEABLE" CONTRACT OR AGREEMENT OF ANY KIND.

IN THE VAST MAJORITY OF CASES THIS HAS WORKED WELL. MOST EVEN PAY THE INTEREST CHARGE WITH NO OBJECTION OR COMPLAINT.

MOST, IN FACT, BELIEVE THAT THEY HAVE A LEGAL OBLIGATION TO PAY THAT BILL AND THE INTEREST THAT IS CHARGED.

IN SOME JURISDICTIONS (BASED ON PROVISIONS OF THE FEDERAL TRUTH-IN-LENDING DISCLOSURE REQUIREMENTS AND THE PENALTIES FOR FAILURE TO MAKE THE DISCLOSURES) IT HAS BEEN HELD THAT BY THE ATTEMPT TO COLLECT THIS INTEREST OR LATE PAYMENT CHARGE, WITHOUT LEGAL AUTHORITY, THE MERCHANT FORFEITS HIS RIGHTS TO COLLECT THE INTEREST AND THE PRINCIPAL.

I DO NOT KNOW OF ANY SUCH LEGAL CHALLENGES THAT HAVE BEEN TRIED IN A COURT OF LAW WITHIN THE STATE OF MONTANA. HOWEVER, I DO KNOW OF SOME CASES WHERE THE THREAT OF SUCH LEGAL ACTION HAS PROMPTED THE MERCHANT TO CHECK WITH HIS ATTORNEY, AND THE RESULTS HAVE EITHER BEEN, WRITING OFF THAT ACCOUNT IN ITS ENTIRETY OR THE ACCEPTANCE OF A COMPROMISE AMOUNT AS FULL PAYMENT.

THE INTENT OF HOUSE BILL 625 IS TO LEGALIZE WHAT HAS BEEN A COMMON PRACTICE.

THE MERCHANTS ARE CORRECT IN SEVERAL OF THE THEORIES BEHIND THIS APPROACH;

- 1) THERE WAS NO INTENT ON THE PART OF EITHER PARTY THAT CREDIT WOULD BE EXTENDED BEYOND THE TIME THAT THE PRESENTATION OF THE BILL THEREFOR WAS RECEIVED BY THE PURCHASER.
- 2) THE INCLUSION OF A "LATE PAYMENT CHARGE" IS THE MOST UNOBTRUSIVE INCENTIVE THAT SUCH PAYMENT BE MADE AS INTENDED.

HOUSE BILL 625, WOULD ALLOW THE RETAIL SELLER TO PROPERLY IMPOSE SUCH A "LATE PAYMENT" CHARGE IF THE PURCHASER DID NOT PAY FOR THE MERCHANDISE AFTER BEING PROPERLY BILLED AT THE END OF THE FIRST BILLING PERIOD AFTER THE OBLIGATION IS INCURRED.

HOUSE BILL 625, WAS VERY CAREFULLY DRAFTED, WITH SAFEGUARDS AGAINST ABUSE, THROUGH REQUIREMENTS OF DISCLOSURE AS CONTAINED IN SECTION 2. SECTION 3., PROVIDES THAT; "THE LATE PAYMENT CHARGE ALLOWED IN SECTION 1 MAY BE ALLOWED TO A SELLER ONLY ON OBLIGATIONS INCURRED AFTER JULY 1, 1981."

I REQUEST, ON BEHALF OF THE RETAILERS OF MONTANA, THAT THIS COMMITTEE GIVE ITS CAREFUL CONSIDERATION TO THIS BILL AND MOVE IT TO THE FLOOR OF THE HOUSE WITH A UNANIMOUS "DO PASS" RECOMMENDATION.

THANK YOU.

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mortgages and bankers tell him that it is easy to do business with other secondary mortgages rather than the Board of Investments and a higher criteria. If you are only going to buy the best loans then you can insist on the highest possible yield. The interim study could really dig into and find out and give a comprehensive report.

Rep. Ellerd questions whether there has ever been a worthwhile study such as this done. Mr. Cadby thought the bank shares study was worthwhile. Rep. Fabrega mentioned it would be necessary to have some people with expertise on such a study committee.

EXECUTIVE SESSION -

Rep. Manning moved HOUSE JOINT RESOLUTION 29 DO PASS. Motion carried with Reps. Jacobsen and Ellerd voting No, and four were absent.

Rep. Wallin moved to UNTABLE HOUSE BILL 349: Motion carried. (This bill was introduced for the purpose of reducing the high cost of liability insurance.) Rep. Wallin moved previously proposed amendments be adopted. Motion carried with Reps. Andreason, Metcalf, Harper voting No. Rep. Andreason moved HOUSE BILL 349 BE TABLED AS AMENDED. Reps. Kitselman, Robbins, Jacobsen, Ellerd, Wallin voted No. Motion carried.

Rep. Jensen moved HOUSE BILL 713 DO PASS. Motion carried unanimously.

Rep. Kitselman moved HOUSE BILL 671 DO PASS. He further moved to adopt proposed amendments and these were unanimously approved. Rep. Kitselman reworded his motion to HOUSE BILL 671 DO PASS AS AMENDED. Motion carried unanimously.

Rep. Kitselman moved HOUSE BILL 625 DO PASS. Rep. Jensen moved that HB 625 be amended to show an effective date to be on passage and approval. Motion carried unanimously. Rep. Kitselman then moved HOUSE BILL 625 DO PASS AS AMENDED. Motion carried unanimously.

Rep. Jensen moved HOUSE BILL 597 DO NOT PASS. Rep. Kitselman made a substitute motion HOUSE BILL 597 BE TABLED. This motion carried 18 - 1 - Rep. Ellerd voted No.

Rep. Ellerd moved HOUSE BILL 612 BE TABLED. Motion carried unanimously.

Rep. Meyer moved HOUSE BILL 492 DO PASS. Rep. Meyer further moved HB 492 be amended. (This is the consumers loan act - limited to using 18% maximum rate.) Amendment carried with Rep. Kitselman voting No. Motion was reworded by Rep. Meyer to HOUSE BILL 492 DO PASS AS AMENDED. Motion carried with Rep. Kitselman voting No.

HEARING CONTINUED -

HOUSE BILL 701 -

REP. CALVIN WINSLOW, House District #65, Yellowstone County, chief sponsor at the request of the Department of Professional and Occupational

LEGISLATIVE SESSION

BUSINESS AND INDUSTRY

[illegible]

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 16, 1981

The regular meeting of the Business and Industry Committee was called to order by Chairman Hazelbaker at 10 a.m. in room 404 of the Capitol Building on Monday, March 16. All members were present.

HOUSE BILL NO. 106: Representative Switzer, District #54 presented the bill. We had a lot of problems trying to define this, and it was provided by the attorney for Associated utilities. HB 106 amends the definition of "rural area" as it pertains to rural co-ops by providing that the definition includes areas in cities or towns of less than 1500 population that later grew to more than 1500 population. The definition also includes an area not within a city or town, having a population in excess of 3500 which is not already being served by a system or facilities, as it applies to rural electric and telephones, and television cable systems.

NO OTHER PROPONENTS:

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

Some general discussion about who was covered and Mr. Switzer made the comment that when the ones in the smaller areas don't feel threatened then it seems to be ok with other areas.

The hearing closed on House Bill No. 106.

HOUSE BILL NO. 625: Representative Fabrega, District #44 presented the bill. The bill allows a retailer of goods to impose a charge of 1 1/2% of the overdue balance on all accounts 30 days past due where the creditor agreed to pay for the goods upon presentation of the bill. A statement would have to be supplied to the purchaser at the end of each month. The bill applies only if the retailer did not intend to extend credit beyond 30 days. This would be if you do not offer revolving credit but you allow a charge account. It gets complex in terms of interest because you have not agreed to provide credit. There has always been a cloud on how you collect payment. We need this bill to clarify something that is already being done. A periodic statement must be furnished, and the late charge may be provided for only if he promptly supplies the buyer with a statement as of the end of each regular period agreed upon. This is a copy of the North Dakota approach. We allow a charge account with the understanding that payment is due on the 10th of the month usually.

NO OTHER PROPONENTS:

NO OPPONENTS:

CURTIS HANSEN came in late and asked if he could speak in support of the bill. This was agreed to.

I am the Executive Vice-president of the Montana Retail Association. Most retailers are of the opinion that they can charge interest on their customer charge accounts of 1 1/2% per month, and most retailers do make that charge to their customers. Most of you, at one time or another, have been charged interest of this type and have more than likely paid it without protest. However, some jurisdictions have held that a merchant that charges such an interest on accounts, is doing so in violation of the law, without a previously signed agreement, and that by doing so he not only must forfeit any interest, but must forfeit the principal as well.

Most merchants have been led to believe it is legal and it appears to be the least obtrusive of the available alternatives. Suppose you have a good friend and customer who overlooks a bill. What do you do, send him another monthly billing, or you can send a friendly, polite note asking for payment. (Have you ever tried to devise a friendly, polite note asking for money due to you?) Most retailers have come to the conclusion that, another billing ---- indicating a monthly interest charge ---- if not paid within 30 days, works best. This is what they do, this is what is being done. In most cases it is working well, but it is illegal. It is a common practice and will continue to be a common practice with or without this bill. This bill is merely designed to legalize a common, acceptable and unobjectionable business practice. HB 625 would allow the retail seller to properly impose such a "late payment" charge if the purchaser did not pay for the merchandise after being properly billed at the end of the first billing period. This bill was very carefully drafted, with safeguards against abuse, through requirements of disclosure in section 2. This would be applicable to obligations incurred after July 1, 1981.

QUESTIONS FROM THE COMMITTEE:

SENATOR REGAN: Is another bill going through to take care of a CPA or an attorney.

MR. FABREGA: If there is another bill I have not been aware of it. If your committee feels it would be within the scope of the title, I would have no objection to it. I feel people have to be able to collect for services rendered.

There was general discussion about interest charges, rate charges, and the difference between them. Some heated discussion followed, concerning page 2, lines 1 through 6, dealing with intangible services, or regulated by the Public Service Commission, or health care services, or installment sales contracts. These are regulated under Title 31.

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There was no further discussion and the hearing closed on House Bill No. 625.

HOUSE BILL NO. 550: Representative Kemmis, District #94 presented the bill, stating this bill is a bill to clear up some inadequacies in the homestead exemption of Montana. We are not talking about Governor Judge's tax bill. The Montana Constitution says that we are to provide for a liberal homestead exemption. It revises the homestead exemption law by allowing all persons to claim the exemption. The law revises the homestead claimed for areas in municipalities and areas outside municipalities. Mobile homes would be able to be included in the homestead. The exemption for automobiles is raised from \$300 to \$1000. The definition of family is revised to replace "head of family" in section 70-32-102 which is repealed. Also, this provides so that your home is protected from judgment creditors. In section 1, page 1, line 16 we have added a reference for mobile homes. There is no way they can protect that home if they don't own the land it is on. They will now have the same protection as everyone else.

On line 24, we delete language. If you don't qualify as a head of a family you don't get an exemption. We have struck out the reference to "head of family". If you use your land for a living, you can claim 350 acres. On page 2, line 19, is the most major change in the bill as it was introduced. I still think this is necessary. By limiting people to \$20,000 we are not allowing a homestead exemption. We are not meeting the constitution with that exemption. I would suggest raising that to \$40,000.

There is one other large change on Page 3, lines 22 and 23. You now have to file with the clerk and recorder before a judgment could come against you. This has to be filed before a judgment situation in order to claim the exemption. Anything else would still be subject to the judgment. On page 4 and 5, section 7, the only reason that that is in there is this, it has nothing to do with the homestead exemption. It refers to the head of family, so we had to put in this other language. The same is true of section 8 on pages 5 and 6, raising the amount that could be used in a car or truck situation.

PROPOSERS:

PHYLLIS BOCK representing the Montana Legal Services. As the Legal Developer for legal services for senior citizens across the State of Montana in 1980, one of the most frequent concerns of senior citizens was that they would become ill, end up in the hospital, incur large hospital and doctor bills not covered by Medicare. After they were unable to pay for their bills in a lump sum and the bills were turned over to collection agencies, they would be sued and would be forced to sell their homes to pay for the bills. They

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Following the regular meeting the committee took action on the following bills, at 11 a.m.

HOUSE BILL NO. 702:

GREG PETESCH, the staff attorney presented the proposed amendment as follows:

1. Page 2, lines 10 and 11
Following: "therefor;"
Strike: remainder of line 10 through "THAT" on line 11.
Insert: "if"

SENATOR DOVER moved the amendment. The motion carried with the vote unanimous.

SENATOR DOVER moved that as amended, HB 702 be concurred in. The motion carried with the vote unanimous. Senator Dover will carry.

HOUSE BILL NO. 625:

SENATOR BOYLAN moved that House Bill 625 be not concurred in. The motion failed on a roll call vote of 5 to 3.

In answer to a question Mr. Curtiss Hansen mentioned that most of the retailers are now using contracts. I think it is a good bill. It is not penalizing the consumers any.

MR. BOLES: Many stores use a system where they will charge something for 90 days but after that there should be some charge involved. This is a convenient way for them to do business.

Then followed discussion about the rate of interest.

SENATOR DOVER moved be concurred in. The motion carried on a roll call vote of 5 to 3. Senator Goodover will carry.

HOUSE BILL NO. 550:

There was discussion about the proposed amendments, as follows:

1. Title, line 5
Following: "~~\$40,000;~~"
Insert: "INCREASING THE EXEMPTION TO \$40,000;"
2. Page 2, line 19.
Following: "~~\$40,000~~"
Strike: "~~\$20,000~~"
Insert: "\$40,000"

ROLL CALL

BUSINESS and INDUSTRY

COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date

Monday
3/16/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	✓		
Hazelbaker, Frank - Chairman	✓		
Blaylock, Chet	✓		
Boylan, Paul	✓		
Dover, Harold	✓		
Kolstad, Allen	✓		
Lee, Gary	✓		
Regan, Pat	✓		

Each day attach to minutes.

not covered in

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date _____ Bill No. 625 Time _____

NAME	YES	NO
Hazelbaker		✓
Goodover		✓
Dover	✓	
Kolstad		✓
Lee		✓
Blaylock		✓
Boylan	✓	
Regan	✓	

Secretary _____

Chairman _____

Motion: _____

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 16, 1981

MR. PRESIDENT:

We, your committee on BUSINESS AND INDUSTRY

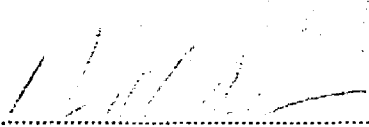
having had under consideration HOUSE Bill No. 625

Fabrega (Senator Goodover)

Respectfully report as follows: That HOUSE Bill No. 625

BE CONCURRED IN

XXXXXX
DO PASS


Frank W. Hazelbaker,

Chairman.